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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,903	09/30/2003	Jeyhan Karaoguz	14449Us02	6132
23446	7590	07/28/2005	EXAMINER	
MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			PHAN, TRI H	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,903	<b>Applicant(s)</b> KARAOGUZ ET AL.	
	<b>Examiner</b> Tri H. Phan	<b>Art Unit</b> 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment/Arguments*

1. This Office Action is in response to the application filed on September 30<sup>th</sup>, 2003. Claims 1-31 are now pending in the application.

### *Specification*

2. The incorporation by reference will not be effective until correction is made to comply with 37 CFR 1.57(b), (c), or (d). If the incorporated material is relied upon to meet any outstanding objection, rejection, or other requirement imposed by the Office, the correction must be made within any time period set by the Office for responding to the objection, rejection, or other requirement for the incorporation to be effective. Compliance will not be held in abeyance with respect to responding to the objection, rejection, or other requirement for the incorporation to be effective. In no case may the correction be made later than the close of prosecution as defined in 37 CFR 1.114(b), or abandonment of the application, whichever occurs earlier.

Any correction inserting material by amendment that was previously incorporated by reference must be accompanied by a statement that the material being inserted is the material incorporated by reference and the amendment contains no new matter. 37 CFR 1.57(f).

3. The attempt to incorporate subject matter into this application by reference to "Attorney Docket No. 14185US0201001P-BP-2800" filed September 8, 2003 and "Attorney Docket No. 14274US0201002P-BP-2801" filed September 11, 2003 in page 2 of 'Cross-Reference to Related Applications/Incorporation by Reference' are improper because the US Patent Application Numbers are missing.

Same problems exist in page 17, with the attempt to incorporate subject matter into this application by reference to "Attorney Docket No. 14276US02" filed September 30, 2003 and

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“Attorney Docket No. 14278US02” filed September 30, 2003; where the US Patent Application Numbers are missing.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3, 9, 13, 19, 23 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 3 recites the limitations “*said second device*” in line 2. There is insufficient antecedent basis for this limitation in the claim 3, nor in the parent claims (claims 1 and 2).

Same problems exist in claim 13, line 2; claim 23, line 2; the “*said second device*” is not defined within claim 13 or 23, nor in the parent claims (claims 11 and 21).

- Claim 9 recites the limitations “*said cost*” in line 1. There is insufficient antecedent basis for this limitation in the claim 9, nor in the parent claim (claim 1).

Same problems exist in claim 19, line 2; claim 29, line 2; the “*said cost*” is not defined within claim 19 or 29, nor in the parent claim (claims 11 and 21).

***Claim Rejections - 35 USC § 102***

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 1-5, 8-15, 18-25 and 28-31 are rejected under 35 U.S.C. 102(e) as being anticipated by **Knox et al.** (U.S.2003/0158928; hereinafter refer as '**Knox**').

- In regard to claims 1, 11 and 21, **Knox** discloses in Figs. 1-10 and in the respective portions of the specification about the *computer program, system and method for controlling transfer of media content in the communication network* (For example see Figs. 1-2, 10; page 2, para [0010]; wherein the data processor, i.e. "*processor*", in the distributed file system provides services through application process, e.g. "*program code*", as disclosed in Abstract; page 7, para [0052]); *which comprise receiving the input specifying the media file* (For example see page 5, paras [0036-0037]; Figs. 7-9; page 6, para [0048]) *for transfer via the communication channel ('streaming media') in the communication network, receiving the quality of service selection specifying parameters* (For example see page 4, para [0033]; pages 5-6, paras [0043]; page 7; paras [0050-0051]) *for the transfer of the media file via the communication channel and transferring the media file via the communication channel utilizing the quality of service selection* (For example see page 6, para [0046]; page 7, paras [0050-0051]).

- Regarding claims 2, 4, 12, 14, 22 and 24, in addition to features in base claims 1, 11 and 21 (see rationales pertaining the rejection of base claims 1, 11 and 21 discussed above), **Knox** further discloses about *transferring the specified parameters* ('selected characteristics') *to the first communication device* ('distributed file system') *coupled to the communication network* (For example see Figs. 1-2, 10; page 6, paras [0044], [0046-0048]; wherein the distributed file system manages the streaming media content and streaming media operations, e.g. "*media server*", as disclosed in page 2, para [0010]).

- In regard to claims 3, 13 and 23, in addition to features in base claims 1, 11 and 21 (see rationales pertaining the rejection of base claims 1, 11 and 21 discussed above), **Knox** further discloses about *configuring the communication channel by the second device* ('agents') *utilizing the transferred specified parameters* (For example see page 2, para [0016]; page 7, para [0051]).

- Regarding claims 5, 15 and 25, in addition to features in base claims 1, 11 and 21 (see rationales pertaining the rejection of base claims 1, 11 and 21 discussed above), **Knox** further discloses about *generating the received input specifying the media file for transfer via the media guide and a device guide* (For example see Figs. 7-9; page 6, para [48]).

- In regard to claims 8-9, 18-19 and 28-29, in addition to features in base claims 1, 11 and 21 (see rationales pertaining the rejection of base claims 1, 11 and 21 discussed above), **Knox** further discloses about "*varying the cost depending on the selected parameters that specify the quality of service*" (For example see page 7, para [0051]; wherein the cost for delivering the

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streaming media asset is determining as the function of the subscribed level of service and the billing cost determining by the billing system is “*presenting the cost for transferring the media file utilizing quality of service selection*”).

- Regarding claims 10, 20 and 30, in addition to features in base claims 1, 11 and 21 (see rationales pertaining the rejection of base claims 1, 11 and 21 discussed above), **Knox** further discloses *wherein the parameters for the transfer of the media file comprises encoding type* (For example see page 4, para [0033], page 5, para [0036]), *encoding rate* (For example see page 2, para [0016]), *the bandwidth to be utilized for transfer* (For example see page 5, para [0041]), *the time to be utilized for the transfer* (For example see page 1, para [0005]), *and the cost for the transfer* (For example see page 7, para [0051]).

- In regard to claim 31, in addition to features in base claim 21 (see rationales pertaining the rejection of base claim 21 discussed above), **Knox** further discloses *wherein the processor is the computer processor* (‘data processor’; For example see page 7, para [0052]).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6-7, 16-17 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Knox et al.** (U.S.2003/0158928; hereinafter refer as '**Knox**') in view of **Rasheed et al.** (U.S.2004/0064575; hereinafter refer as '**Rasheed**').

- In regard to claims 6, 16 and 26, in addition to features in base claims 1, 11 and 21 (see rationales pertaining the rejection of base claims 1, 11 and 21 discussed in part 7 of this Office action above), **Knox** discloses about the distributed file systems for providing services for loading, staging, distributing and delivering streamed media content over data network. **Knox** does disclose about the user interface (For example see Figs. 7-9) presented by the system to the client for providing inputs to access and manage media files over data network. Though, **Knox** does not explicitly disclose about generating the received input from "*the television screen within the home*"; however, "*received input from the television screen within the home*" is well known in the art for generating data transfer sessions, which require different Quality of Service for appropriate data transfer session.

For example, **Rasheed** discloses in Figs. 1-3 and in the respective portions of the specification about the apparatus and method for data transfer system based on the request priority data transfer in the Small Office or Home Office 'SOHO' network (For example see Fig. 1; page 1, para [0003]; pages 1-2, paras [0014-0015]); wherein the user selects the choices displayed on the TV in the SOHO network ("*received input from the television screen within the home*"; For example see page 4, paras [0032-0033]) with rendering control service to the television (For example see page 3, para [0021]) in transferring media.



Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to implement the invention as taught by **Rasheed**, by combining the selecting menu displayed on the TV into the **Knox**'s system, with the motivation being to improve the ability to select choices from different environment, e.g. from the "*television screen within the home*" in transferring media data.

- Regarding claims 7, 17 and 27, in addition to features in base claims 1, 11 and 21 (see rationales pertaining the rejection of base claims 1, 11 and 21 discussed in part 7 of this Office action above), **Knox** further disclose about "*buffering the media file*" during transferring ('media-on-demand file'; For example see Fig. 2; page 5, paras [0036-0037]; wherein, "*queuing the media file*" is obvious in order to transferring streaming media files suited with data rates and different formats.

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to implement the "*queuing the media file*" into the **Knox**'s storing process, with the motivation being to improve the ability to manage and distribute the streaming media files.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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**Jayant et al.** (U.S.2003/0069963) and **Wiedeman et al.** (U.S.2002/0031103) are all cited to show devices and methods for improving the Quality of Service in the telecommunication architectures, which are considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on (571) 272-3126.

**Any response to this action should be mailed to:**

**Commissioner of Patents and Trademarks**

Washington, D.C. 20231

**or faxed to:**

**(571) 273-8300**

Hand-delivered responses should be brought to Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office, whose telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tri H. Phan  
July 26, 2005



**BRIAN NGUYEN**  
**PRIMARY EXAMINER**